

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-CR-280

MLADJEN CVIJANOVIC,

Defendant.

---

ORDER ADOPTING MAGISTRATE JUDGE GOODSTEIN'S RECOMMENDATION  
(DOC. # 22) AND DENYING DEFENDANT'S MOTION TO DISMISS (DOC. # 17)

The defendant, Mladjen Cvijanovic, filed two pre-trial motions, one seeking dismissal of his indictment (Doc. # 17) and one seeking a bill of particulars (Doc. # 18). He contends that the prosecution of this case for violation of 18 U.S.C. § 1546(a) is barred by the statute of limitations because the charge offense occurred when he filled out his immigration application in 2001, well outside the five year statute of limitations.

Magistrate Judge Aaron Goodstein issued his Recommendation and Order on February 8, 2011. He found that the defendant was charged with a possessory offense, not a false statement offense. Moreover, Judge Goodstein determined that possessory offenses are continuing offenses and the statute of limitations did not begin to run until the possessor no longer had the item. In the instant case, Judge Goodstein found that the indictment is sufficient inasmuch as it alleges that Cvijanovic possessed a fraudulently obtained permanent resident card on September 7, 2010, and December 6, 2010.

Finally, Judge Goodstein found that Cvijanovic's motion for a bill of particulars is moot because the government provided him with the requested information. Consequently, he ordered that the motion be denied.

The Recommendation directed the parties to 28 U.S.C. § 636(b)(1)(A)-(C) and Fed. R. Crim. P. 59(a) and (b)(2), and noted that they had fourteen days from service of the Recommendation and Order to file written objections for consideration by this court. However, no objections were filed and this matter is ready for disposition.

On dispositive matters and certain other matters enumerated in 28 U.S.C. § 636(b)(1)(A) and Fed. R. Crim. P. 59, including motions to suppress evidence, a magistrate judge may only propose findings and make recommendations. A district court must review *de novo* the recommendations of the magistrate judge to which a party timely objects. 28 U.S.C. § 636(b)(1)(C); Fed. R. Crim. P. 59(b)(2), (3). However, portions of a recommendation to which no party objects are reviewed for clear error. *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Thus, the *de novo* standard of review applies only to matters on which a party objects to a magistrate judge's recommendation (rather than an order) on the issues set forth in § 636(b)(1)(A) and Fed. R. Crim. P. 59(b)(1).

The court has reviewed Judge Goodstein's Recommendation as to defendant Cvijanovic's Motion to Dismiss and finds no clear error. Therefore,

IT IS ORDERED that Magistrate Judge Goodstein's Recommendation and Order (Doc. # 22) is adopted, and for the reasons set forth by the magistrate judge, defendant Cvijanovic's Motion to Dismiss (Doc. # 17) is denied.

Dated at Milwaukee, Wisconsin, this 19th day of April, 2011.

BY THE COURT

/s/ C. N. Clevert, Jr.  
C. N. CLEVERT, JR.  
CHIEF U.S. DISTRICT JUDGE